

AO (Rev. 5/85) Criminal Complaint

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

vs.

CASE NUMBER:

MARIO LAGUNA-GUERRERO

8:10 MJ 1164 MAP

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. Beginning sometime in 2008 and ending on March 31, 2010, in Hillsborough County, in the Middle District of Florida, defendant Mario Laguna-Guerrero committed the federal crime of sex trafficking of a minor in violation of Title 18, United States Code, Sections 1591 and 2. I further state that I am a Special Agent with Immigration and Customs Enforcement, and that this Complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: Yes No



Signature of Complainant
William Williger

Sworn to before me and subscribed in my presence,

April 12, 2010 _____

at

Tampa, Florida _____

MARK A. PIZZO
United States Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, William Williger, being sworn to tell the truth, state the following information:

1. I am a Special Agent with the United States Department of Homeland Security (DHS) Bureau of Immigration and Customs Enforcement (ICE) Office of Investigations and have been since December of 2006. I am currently assigned to the Office of the Special Agent in Charge, Tampa, Florida.

2. Prior to becoming a Special Agent, I served as a Staff Sergeant in the United States Marine Corps Reserve for approximately eleven years. During your Affiant's time in the United States Marine Corps Reserve your Affiant served as a Platoon Sergeant and participated in combat operations in Operation Iraqi Freedom.

3. As a Special Agent with ICE, I am a federal law enforcement officer as described in Title 18, United States Code, Section 2510(7). I am responsible for investigating violations of federal law and for enforcing it. As such, I am empowered to conduct investigations and make arrests for certain federal offenses.

4. As a federal agent, I have been directly involved in federal investigations and have assisted other agents in conducting investigations, including in joint, interagency investigations.

5. In my prior investigative experience, I have conducted physical surveillance, executed search warrants and reviewed recordings, including of individuals involved with human trafficking. I have interviewed witnesses, victims, and worked with cooperating individuals. I have also completed a twenty-six week academy, which certified me as a criminal investigator.

6. Finally, I have been assigned by ICE to the U.S. Department of Justice (DOJ) Clearwater Area Human Trafficking Task Force (HTTF), which is a local, state, and federal multi-agency task force devoted to combating the scourge of human trafficking, which includes the sex trafficking of children. In that capacity, I have been involved with the investigation into the activities of Mario Laguna-Guerrero.

Sources of Information

7. I am aware of the information contained in this affidavit because of what has been imparted to me by law enforcement working on this investigation and by my own direct involvement in it. I note that I do not speak Spanish and, therefore, have had to rely upon others to correctly translate conversations from Spanish into English.

Sex Trafficking of Children

8. The elements of a violation of Title 18, United States Code, Section 1591, are that:

- (1) the Defendant knowingly recruited, enticed, harbored, transported, provided, obtained, or maintained a person if the defendant knew, or recklessly disregarded the fact, that such a person would be caused to engage in a commercial sex act;
- (2) that the person was under 18 years of age at the time of the offense; and
- (3) the offense was in or affecting interstate commerce.

9. For the final element of the offense, element three, the United States must prove that the offense was in or affecting interstate commerce. The seminal case in the Eleventh Circuit on this issue is United States v. Evans, 476 F.3d 1176 (11th Cir. 2007).

10. In Evans, the defendant challenged the constitutionality of 1591 as applied to his purely local actions. Evans stands for two propositions, first, that even though defendant's acts to entice a minor female to commit prostitution solely occurred in Florida, that, his actions had the capacity, in the aggregate with similar conduct of others, to frustrate Congress' broader regulation of interstate and foreign economic activity. Congress recognized that human trafficking adversely affected interstate commerce and sought to eliminate it: "Trafficking in persons substantially affects interstate and foreign commerce. The United States must take actions to eradicate the substantial burdens on commerce that result from trafficking in persons and to prevent the channels of commerce from being used for immoral and injurious purposes." 146 Cong. Rec. H2675-01 (2000). The second proposition is that many types of acts satisfy the interstate commerce element of 1591: the court noted that evidence of a hotel that served interstate travelers affected interstate commerce; in addition, condoms, manufactured out of state and furnished by pimps to their prostitutes, also affected interstate commerce. Importantly, telephones and cellular telephones are also instrumentalities of interstate commerce. According to the Evans court, their use alone, even without evidence that the calls were routed through an interstate system, is sufficient to satisfy an "in or affecting" interstate commerce element. Evans at 1881.

Investigation Summary

11. Starting in approximately 2008, here in the Middle District of Florida and more specifically in Hillsborough County, Mario Laguna-Guerrero (Laguna) recruited a girl, younger than age 18, to perform commercial sex acts at his instruction; to be blunt, he became her pimp. In this capacity, he transported her to various locations, primarily to migrant farm worker camps, for the purpose of prostituting her. At these locations, he provided her to various individuals, who paid to have sex with her. Throughout the remainder of this affidavit, she will be called Victim #1. In addition, through Victim #1, Laguna sought to recruit additional women to be prostitutes for him, as described more fully below.

12. Over the course of the investigation, it was discovered that Laguna transported Victim #1 in a Toyota vehicle that was manufactured outside the State of Florida. Laguna used a cell phone, including to arrange various paid assignments. He also provided condoms, which were not manufactured in the State of Florida. Finally, Laguna transported Victim #1 for prostitution to migrant farm worker camps in eastern Hillsborough County; these camps are primarily comprised of mobile homes that are occupied by transient individuals who travel across the U.S. for the growing and harvesting seasons. These individuals come from around the United States and around the world.

Victim #1

13. Victim # 1 was born in July of 1992 and is seventeen (17) years old. Victim #1 is enrolled in the eleventh grade at a local high school.

14. Based upon the nature of the offense (sex trafficking) and the age of the victim (17), I have intentionally removed certain identifiers from this affidavit. We do know Victim #1's name, law enforcement has interviewed her and she is cooperative. She does have a disability, described below. At the Court's request, I can provide the requested information, including her name, date of birth, address, high school, and other details that I have intentionally omitted from this affidavit.

15. Victim #1 has a Full Scale Intelligence Quotient of fifty eight (58). The average person's Full Scale Intelligence Quotient would fall between eighty five (85) and one hundred fourteen (114).

Laguna

16. Laguna is a citizen and national of Mexico. He is presently in the United States without having been inspected or paroled by an Immigration Official. On April 1, 2010, your Affiant conducted an ENFORCE (an immigration database) check using a copy of the fingerprints Laguna provided when he was booked into the Hillsborough County Jail. According to ENFORCE, Laguna was born on January 1, 1985, and is twenty five (25) years old.

17. Additionally, ENFORCE revealed that Laguna was granted two voluntary returns to Mexico on September 23, 2003, and again on October 13, 2003. These voluntary returns are a form of quick, consensual deportation for individuals who are unlawfully in the United States. At present, Laguna is, again, unlawfully in the United States.

Statement of the Defendant

18. On March 31, 2010, I interviewed Laguna with Hillsborough County Sheriffs Office Detective Brian Boswell. An audio and video recording of the interview was made and placed into evidence. At approximately 1345 hours, Laguna was read his Miranda Rights in Spanish. Richard Lozada served as the Spanish translator. Laguna asked if was under arrest. Detective Boswell said that, at that time, he was not under arrest. Laguna waived his Miranda Rights and agreed to answer any questions that the law enforcement officers asked.

19. Laguna admitted to an ongoing sexual relationship with Victim 1. He estimated that the relationship had been ongoing for approximately two years. Laguna stated that he and Victim 1 had been having consensual sex since Victim 1 was sixteen (16) years old. Additionally, Laguna said that he lived with Victim 1 and her mother for approximately one year

20. Laguna admitted that he acted as a pimp for Victim #1. Laguna stated that Victim #1 had been prostituting for him for approximately four months. Laguna admitted that he collected the money Victim #1 earned from being prostituted. Laguna stated that Victim #1 charged \$25.00 in exchange for sexual intercourse.

21. Laguna said that he was using the money to repay his two thousand dollar in (\$2,000.00) smuggling debt from 2002. Laguna stated that Victim #1 wanted to help him repay the debt, so she agreed to act as a prostitute and provide the profits to him.

22. Laguna stated that his smuggler had threatened to cut off his fingers if he did not repay his smuggling debt. Laguna showed a scar on his left wrist from where he said that the smugglers had cut him. I observed a faded scar that was approximately

one and a half inches long. Laguna said that he also picked strawberries to supplement Victim #1's earnings as a prostitute.

23. Laguna was asked if any other women acted as prostitutes for him and he said that none did. However, Laguna did say that he asked Victim #1 to recruit her classmates at her high school to act as prostitutes.

24. At this point, we ended our interview. I then asked Laguna if some other law enforcement officers could ask him some additional questions and he said yes.

25. At this point, Detective Boswell placed Laguna under arrest for sexual battery.

26. At approximately 1516 hours, Clearwater HTTF agent James McBride (Detective, Clearwater Police Department) and Clearwater HTTF agent Jeremy Lewis (Detective, Pinellas County Sheriff's Office) began to question Laguna.

27. This was essentially a continuation of the same post-Miranda interview, in the HCSO interview room. It was, again, recorded, in the same manner as described above.

28. Detective Lewis reminded Laguna that he had been read his Miranda Rights. Detective Lewis then asked him if he would be willing to continue answering questions and Laguna said yes.

29. Laguna once again said that he used Victim #1 as a prostitute and he collected the profits she earned from prostitution. Laguna admitted that he transported Victim #1 to various migrant farm camps in eastern Hillsborough County, Florida.

30. Laguna also said he asked Victim #1 to recruit her classmates to act as prostitutes.

31. Laguna said that he owed money to two individuals known only as Julio and El Diablo. Laguna gave numerous inconsistent statements regarding to whom the debt was owed and how the debt was to be repaid.

32. Laguna would frequently interchange Julio and El Diablo as the individual who would direct him to the migrant farm camps where Victim #1 was to act as a prostitute.

33. Laguna also gave conflicting statements as to who collected Victim #1's earnings. Laguna stated that some of the men who engaged in sexual intercourse with Victim #1 (in prostitution parlance, Johns) paid Laguna or paid Julio and El Diablo at a later date.

34. I note that, in this interview, Laguna made no mention of the threat to cut off his fingers to Detective McBride or Detective Lewis.

35. Detective McBride asked Laguna if he could look in his wallet. Among the items Detective McBride found was a Trojan condom. Laguna said that one of the brands of condoms that Victim #1 used were Trojan condoms.

Trojan brand condoms

36. I have made efforts to consult with representatives of the company that manufactures Trojan brand condoms. I have subsequently learned that these condoms are not manufactured in the State of Florida.

Interview of Victim #1

37. On March 31, 2010, ICE Special Agent (SA) Joseph Durand and I interviewed Victim #1 in the presence of her mother.

38. Victim #1 stated that she and Laguna had been dating for approximately two years. Victim #1 told us that she and Laguna began an on-going consensual sexual relationship approximately seven months later. She also told us that Laguna has been living with Victim #1 and her mother for approximately one year.

39. Victim #1 said that Laguna began taking her to migrant farm camps located in eastern Hillsborough County, Florida, in late August or early September of 2009 for the purpose of engaging in sex acts in exchange for money. Victim #1 used the beginning of the current school year (2009 - 2010) as a time line. Victim #1 told us that all of the Johns were Hispanic males.

40. Victim #1 stated that she only engaged in vaginal sex. She told us that Laguna would charge each John twenty five dollars to have sex with her. Laguna would then give each John a condom prior to engaging in sexual intercourse with Victim #1.

41. Victim #1 thought that Laguna gave her half the profits from her sex acts. She told us that Laguna would give her money at the end of each night and then additional money when Victim #1 requested it.

42. Victim #1 told us that she first began prostituting she was only taken to migrant farm camps on Friday nights. Victim #1 also told us that when she first started to prostitute she would see three (3) or four (4) Johns a night.

43. Victim #1 used an approximate date range of between Halloween and Christmas of 2009 when Laguna began taking her (Victim #1) out on Friday and Saturday nights to prostitute. Victim #1 estimated that she would see seven (7) to nine (9) Johns a night at that point. Victim #1 stated that Laguna would drive her to mobile homes in various migrant farm worker camps.

44. Victim #1 told us that she did not want to do this. Victim #1 told us that when she was first forced to prostitute she said that "I don't wanna do this." Victim #1 stated that she told Laguna this on several occasions.

45. Victim #1 stated that, during the summer of 2009, she, her mother, and Laguna traveled to Michigan to visit Victim #1's family. It was after this trip that Laguna began to pressure Victim #1 to be a prostitute for him. According to Victim #1, Laguna told her that he needed money because he lost his job when he traveled to Michigan with Victim #1 and her mother. Laguna would tell Victim #1 that it was her fault he lost his job.

46. Victim #1 told us that Laguna was not violent towards her nor did he threaten her. However, Laguna would cut himself or in some other way inflict injury upon himself and tell Victim #1 that it was her fault he hurt himself. Victim #1 stated that there was a fresh, self-inflicted wound on his chest.

47. Victim #1 also said that it was around Valentines Day in 2010 when Laguna began to pressure Victim #1 to recruit her classmates to work as prostitutes. Victim #1 stated that, at the direction of Laguna, she attempted to recruit Victim #2 and Witness #1 to work as prostitutes.

48. Victim #1 told us that, on one occasion, Laguna had non-consensual sex with Victim #2. The encounter took place in front of Victim #1. Victim #1 stated that she repeatedly heard Victim #2 cry and say stop.

49. Victim #1 said that Laguna would spend the prostitution-derived earnings to repair his vehicle. It was at this point that we ended the interview with her.

Chest injury described by Victim #1

50. Subsequent investigation confirmed the existence of the wound on Laguna's chest that Victim #1 described as self-inflicted and the existence of which was used by Laguna to manipulate her. Detective Boswell photographed it and the photo has been preserved in evidence.

Victim #2

51. Victim 2 was born in June of 1990 and she is nineteen (19) years old. According to Victim #2's mother, Victim #2 has the mental capacity of a second grader.

Witness #1

52. Witness #1 was born in May of 1992 and is seventeen (17) years old. Witness #1 has a Full Scale Intelligence Quotient of fifty six (56).

Interview of Victim #2

53. Following the interview of Victim #1, SA Durand and I conducted an interview of Victim #2 in the presence of her mother and father.

54. Victim #2 stated that Victim #1 first attempted to recruit her (Victim #2) to prostitute on January 26, 2010. I asked how Victim #2 was able to remember the exact date. Victim #2's mother stated that Victim #2 has an uncanny ability to remember exact dates. Victim #2 then stated that Victim #1 tried to recruit her on the school bus. Victim #2 stated that she did not want to be a prostitute. Victim #2 told us that, although she was being recruited, she never engaged in prostitution.

55. Additionally, Victim #2 stated that it was on January 26, 2010, that Laguna had non-consensual sex with her. Victim #2 stated that Victim #1 was in the room during the encounter. Victim #2 stated that she cried and repeatedly told Laguna to stop. At one point, Laguna stopped the assault only to continue it a few minutes later.

56. Victim #2 said that, in February 2010, she became aware that Victim #1 was engaging in prostitution and providing Laguna the money she earned. This was the when our interview ended.

An observation regarding rape and prostitution

57. Based upon my training and experience, I know that non-consensual sex - that is, rape - and prostitution often accompany each other, including during the period of time in which a pimp is attempting to recruit someone to be one of his prostitutes.

Means of Transportation

58. During interviews of the Laguna and Victim #1, I was told that the vehicle used to transport Victim #1 to the various migrant farm had been sold to a salvage yard in the area of U.S. Highway 41 and Causeway Boulevard in Tampa, Florida.

59. On April 2, 2010, SA Durand located the vehicle at Tampa Bay Used Auto/Salvage Parts on 3120 South 50th Street, Tampa, Florida 33619. The vehicle in question was a 1991 grey Toyota Corolla.

60. The vehicle identification number is 1NXAE94A2MZ237547.

61. When the car was sold, a copy of the title was given Martin Sanchez (Sanchez), the manager of Tampa Bay Used Auto/Salvage Parts. Sanchez told us that he had purchased the grey Toyota Corolla from Laguna.

62. Sanchez said that he paid Laguna for the car, giving him check number 7551. The vehicle title shows Epifanio Hernandez as the previous registered owner.

63. With Sanchez's consent, Hillsborough County Sheriffs Crime Scene Unit processed the 1991 grey Toyota Corolla for physical evidence.

64. On April 7, 2010, SA Durand and I obtained documents from Toyota which detailed the 1991 grey Toyota Corolla's history. Included in the documents was confirmation that the previous registered owner of the vehicle was Epifanio Hernandez.

65. Additionally, a document showed that the 1991 grey Toyota Corolla had been assembled at the Toyota manufacturing plant located in Fremont, California.

66. On April 8, 2010, SA Tavey Garcia and I traveled to the relevant local high school where Victim #1 was shown two pictures of the 1991 grey Toyota Corolla. The interview was conducted in the presence of an assistant principal. After looking at the pictures, Victim #1 said that the vehicle belonged to Laguna's uncle. I then asked if Laguna had ever used the vehicle to drive Victim #1 to the migrant farm camps for the purpose of prostitution. Victim #1 said yes.

67. The gray 1991 Toyota Corolla, vehicle identification number 1NXAE94A2MZ237547, was used to transport Victim 1 to the migrant farm workers camps.

Conclusion

68. I respectfully submits that probable cause exists to believe that, starting sometime in 2008 and ending on March 31, 2010, Mario Laguna-Guerrero has violated the federal prohibition against the sex trafficking of minors found at 18 U.S.C. § 1591.

This completes my Affidavit.



William Williger, Special Agent
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 12th day of April, 2010.



HONORABLE MARK A. PIZZO
United States Magistrate Judge